

### **REMARKS**

Claims 46-50, 52-54, 56-66, and 68-118 are pending and at issue. The office action mailed June 10, 1999 confirm that these claims 46-50, 52-54, 56-66, and 68-118 are allowable over the prior art.

The only rejection in this case is that of claims 46-50, 52-54, 56-66, and 68-118, which are rejected as based upon a defective reissue declaration. The office action acknowledges the original reissue declaration filed with the parent reissue application, but points out, however, that additional errors (stemming from amendments during prosecution of this divisional application) are now being addressed by the conditionally-allowed claims.

The fee required for petition under 37 C.F.R. 1.183 is set forth under 37 C.F.R. §1.17(f). Please charge that fee to our credit card.

Accordingly, applicant has submitted herein an executed supplemental reissue declaration (now the second such supplemental) under 37 C.F.R. § 1.175(b) (*Ex. A*). The supplemental reissue declaration is executed by all of the inventors, except Ronald M. Kurtz and Gerard Mourou who have refused to execute.

Pursuant to MPEP 1414.01, applicant respectfully petitions the Commissioner under 37 C.F.R. § 1.183 to suspend the requirement under 37 C.F.R. § 1.175 that all of the inventors must sign the supplemental reissue declaration, and to waive the signature requirement for the non-signing inventors. It is requested that, based on the following, the attached supplemental declaration be accepted and entered. As established below, two of the joint inventors who had previously executed numerous declarations in this and other related applications, including a prior supplemental declaration, have refused to sign the current supplemental declaration. All other inventors have signed however. Thus, pursuant to 37 C.F.R. § 1.183 and the accompanying Statement of Facts of Richard A. Brandon (*Ex. B*), applicant petitions acceptance of the supplemental reissue declaration, and allowance of this application.

More specifically, Dr. Kurtz executed the original reissue declaration in the parent application USSN 09/366,685 on July 22, 1999 (*Ex. C*). Dr. Mourou also executed the original reissue declaration in July 1999 (*Ex. C*). Dr. Kurtz and Dr. Mourou subsequently

executed a supplemental declaration in the present divisional application, on August 6, 2004 and August 11, 2004, respectively (*Ex. D*) (in addition to two supplemental declarations executed in the divisional application USSN 09/775,075). Dr. Kurtz also refused to execute a third supplemental declaration in the '075 divisional application, for which a similar petition to the present one has been filed and granted. As indicated in the attached Statement of Facts (*Ex. B*), a representative for the assignee repeatedly contacted Dr. Kurtz beginning on or about October 15 of this year to have Dr. Kurtz complete a second supplemental reissue declaration pertaining to amendments made to the claims in the present application after August 6, 2004, likewise with respect to Dr. Mourou beginning on October 16, 2009. After repeated email communications with Dr. Kurtz and Dr. Mourou, requesting that they each execute the second supplemental reissue declaration, neither would sign. As indicated, the last contact with Dr. Kurtz was October 21, 2009, via email, and Dr. Kurtz has not responded substantively or otherwise provided an executed second supplemental reissue declaration. The last contact with Dr. Mourou was via email on November 9, 2009, and he also has not responded to our contacts.

An assignment of the invention in favor of The Regents of the University of Michigan has been previously submitted.

### **CONCLUSION**

On the basis of these facts and for the foregoing reasons, it is solicited that the attached supplemental reissue declaration be accepted under 37 C.F.R. 1.183.

Should the examiner have any question of form or substance, he is encouraged to contact the undersigned attorney at the telephone number and address listed below.

Dated: November 10, 2009

Respectfully submitted,

By 

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